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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 WENDEL WAYNE JOHNSON,

11 Petitioner,

12 v.
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14 MAGGIE MILLER-STOUT,

15 Respondent.

CASE NO. C11-5822-BHS-JRC

ORDER DENYING
APPOINTMENT OF COUNSEL
AND DEFERRING RULING
ON THE MOTION FOR AN
EVIDENTIARY HEARING

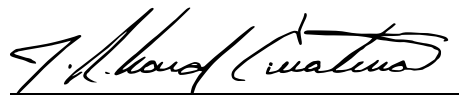
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17 This habeas corpus petition, filed pursuant to 28 U.S.C. § 2254 has been
18 referred to the undersigned Magistrate Judge Pursuant to 28 U.S.C. §§ 636
19 (b)(1)(A) and (B) and Local Magistrate Judge Rules MJR 1, MJR 3, and MJR 4.
20 Petitioner has filed a motion for appointment of counsel and a memorandum in
21 support (ECF No. 1). He has also filed a motion for an evidentiary hearing and a
22 memorandum in support of that motion as well (ECF No. 1).
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1 Petitioner's pleadings do not follow the Fed. R. Civ. P. or the Local Rules.
2 Memorandums in support of a motion have been abolished. Supporting arguments
3 should be should be set forth in the motion itself. Petitioner is instructed to follow
4 the Fed. R. Civ. P. and Local Rules in all future filings.
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6 The Court will order service of the petition and wait for an answer or motion
7 from Respondent before addressing the motion for an evidentiary hearing. This
8 gives Respondent the opportunity to file a response to the motion.

9 There is no right to have counsel appointed in cases brought under 28 U.S.C.
10 § 2254 unless an evidentiary hearing is required, because the action is civil, not
11 criminal, in nature. Brown v. Vasquez, 952 F.2d 1164, 1168 (9th Cir. 1991) (*citing*
12 McCleskey v. Zant, 499 U.S. 467, 495 (1991)); see Ortiz v. Stewart, 149 F.3d 923,
13 939 (9th Cir. 1998) ("There is simply no constitutional right to an attorney in a
14 state post-conviction proceeding."); see also Terrovona v. Kincheloe, 852 F.2d
15 424, 429 (9th Cir. 1988); and Rule 8(c) of the Rules Governing Section 2254 Cases
16 in the United States District Courts." The motion for appointment of counsel is
17 denied at this time.
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20 Dated this 27th day of October 2011.

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22 J. Richard Creatura
23 United States Magistrate Judge
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